UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1104
31 October 1991

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE 1104th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 October 1991, at 10 a.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Third periodic report of Poland (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-18152/3869B

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Poland (CCPR/C/58/Add.10 and Add.13) (continued)

1. The CHAIRMAN invited members who so wished to comment further on the replies of the delegation of Poland to the questions asked in sections V and VI of the list of issues.

2. Mrs. HIGGINS asked what was being done to prosecute members of the Civic Militia and security services who had been found guilty of abuses of authority. She would also like to know what action had been taken in regard to the training of officials having control over detained persons.

3. It was her understanding that the public prosecutor could authorize access to a person held in pre-trial detention, including by his lawyer, but that the family of the detainee had often been denied such access for lengthy periods. She would like to know whether the new legislation which was to be introduced would deprive the public prosecutor of such power to control access. Referring to question V (b), she considered that the maximum period of pre-trial detention was excessively long and wondered whether thought was being given to the possibility of reducing it. In 1990 42 persons had been held in detention pending trial for more than two years and 240 persons for more than 18 months. The issue of mental health should clearly not be left to the public prosecutor rather than to a court.

4. In paragraph 67 of the report (CCPR/C/58/Add.10) there was a reference to "involuntary offences"; what were they?

5. Mr. WENNERGREN asked whether the remedy provided in article 9 (4) of the Covenant, whereby a detainee could take proceedings before a court to establish the lawfulness of his detention, was available to anyone detained for any lawful reason.

6. Article 9 (3) of the Covenant provided that anyone arrested or detained on a criminal charge should be brought promptly before a judge or other officer authorized by law to exercise judicial power. Under that provision it was clearly the responsibility of the detaining authority, not that of the detainee, to initiate action. What was the position of Polish legislation on that point?

7. Mr. PRADO VALLEJO, referring to article 7, said that there were problems with police investigations in every country. He would like to know whether there had been substantial changes in the composition of the police in Poland. Were members of the former police force, who had committed so many acts of violence, continuing to serve in the police? Had the human rights of detainees been explained to them and were there plans to reform the police?

8. He would also like to know how places of detention were organized and whether there were minimum accommodation standards.

9. Mr. HERNDL said he was aware that the Polish Government had done its best to ensure that, in cases of possible maltreatment in detention, there was an appeal procedure and an effective remedy; he was also aware that Poland had ratified the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, under which it was a clear obligation that testimony obtained as a consequence of maltreatment should not be used in court. In the second periodic report of Poland, under article 7 and also under article 14, it had been mentioned that the testimony of the defendant or witnesses and declarations made under circumstances which precluded voluntary and unrestrained expression should not constitute valid evidence. He wondered whether that provision was still being applied.

10. Mrs. SKORZEWSKA-LOSIAK (Poland), replying to the questions raised regarding changes in the regulations concerning the police and prison officers, said that, starting in 1989, the Ministry of the Interior had begun to change the professional status of the police. The police were now headed by civilians and were subject to monitoring by a central body; they were under the control of a Commander-in-Chief who was accountable for police conduct to the Minister of the Interior. With regard to the professional training of police officers, the first step was to ascertain whether a candidate for a police post was suitable for employment; recruits then went through a three-month training period during which they were made aware of the rights and guarantees of detainees. The composition of the police force had changed substantially. The previous force had been dissolved by a law under which the former security services had also been disbanded. All officers who had been found to have infringed the law had been discharged. It was true that some transgressors might still be working in the police force but it was hoped that the new approaches and regulations would constrain such people to pursue their activities in a proper form.

11. There had been a great change in the prison staff in 1990, when professional training courses had been organized for 2,000 persons: a further 1,400 staff members had followed such courses in the first half of 1991. In addition, 3,900 persons had taken specialized courses. She hoped that those facts would demonstrate the importance that the Minister of Justice attached to such training.

12. The Government was trying to limit the work of prison staff to a protective role; civilians with appropriate training were also being employed in such establishments, including pyschiatrists and specialists on rehabilitation from the University of Warsaw. The prison services in Poland were headed by a scientist trained in social reintegration and rehabilitation. Broad international contacts were being developed and recently an international conference for European prison officers had been held in Poland in which prison officers from Sweden, Norway and Denmark had participated. Rules and regulations applicable to those serving sentences in Poland had been brought into line with international norms and standards.

13. With reference to the right of a suspect to consult his lawyer, the situation was that he could do so without the presence of other persons other than a possible observer representing the public prosecutor. It had now been agreed that the regulation on that point should be amended to give the suspect the right to consult his lawyer without anybody at all being present.

14. The period of pre-trial custody had in some cases been too long, with the result that a normal maximum, to include the period of investigation prior to the court proceedings, had been established. In some cases, however, the period of pre-trial detention might have to be extended beyond the current ceiling of 18 months or, in the case of murder suspects, two years. Such prolongations, which might be necessary because of the mental health of the accused or because of the need to conduct inquiries abroad, would be for a specified time and would be decided by the Supreme Court. She agreed that prolongation of pre-trial detention must be avoided where there were no real grounds. Regulations to that effect were being prepared, bearing in mind that a sentence of imprisonment was not the same thing as remand in custody.

15. She shared the view that there was an urgent need to amend the regulations for the protection of mental health with a view to ensuring that persons in psychiatric hospitals were treated in accordance with generally accepted international norms. The initiative for placing mentally ill persons in hospital lay with the courts which were responsible for examining their cases. She would draw the attention of the Polish authorities to the questions which had been asked in that respect. The law on the matter was to be discussed in Parliament in the near future.

16. In cases of detention, the prisoner always had the right of recourse to a court unless that right was relinquished voluntarily.

17. The rules on interrogation had not yet been changed. Under article 156 of the Code of Criminal Procedure a person interrogated must be free to speak and any explanations by him must be given in circumstances of freedom, failing which the information would be inadmissible in court. The regulations were very clear on that point. In an increasing number of cases, the court had not accepted evidence obtained at a time when freedom of expression had not been guaranteed. Such rulings established the manner in which the police should conduct themselves in future; they must give up improper methods. Under new regulations, a policeman found to have infringed the law or to have been derelict in his duty could be sentenced to up to five years' imprisonment. A policeman who used physical force, threats or mental ill-treatment in order to obtain evidence was liable to a similar sentence.

18. The conditions in which prisoners were held in police cells and in prisons had improved considerably. A report of the Civil Rights Spokesman had noted that in the past there had been a great deal of negligence in that respect and many changes had therefore been introduced. A substantial number of prisons were very old, dating back to the nineteenth century, thus rendering the reform process more difficult. In future no prisoners could be remanded in police cells for longer than 48 hours, after which they must be kept in prisons under the control of the Ministry of Justice. The legal reforms had led to a 50 per cent decline in the number of detainees, from about 100,000 inmates to approximately 50,000 in October 1991. International standards were being applied in cases of pre-trial detention, which was subject to very careful monitoring by personnel who had free access to prisons and jails. The Prison Patronage Association could also enter places of detention freely, while the Civil Rights Spokesman also played an active role.

19. The CHAIRMAN invited the Polish delegation to take up sections VII and VIII of the list of issues.

VII. Right to a fair trial (article 14)

(a) What changes have been introduced in the draft code of criminal procedure relating to guarantees of a fair trial?

(b) Please provide information on the scope of jurisdiction of the military courts and on their position in the court system in Poland.

(c) Please provide information on the current schemes for legal aid.

(d) Please comment on the experience to date of the National Judicial Council (para. 87 of the report).

(e) With reference to paragraph 29 of the report, please provide information about the size of the backlog of cases before the ordinary courts.

VIII. Freedom of movement and expulsion of aliens (articles 12 and 13)

(a) With reference to paragraph 17 of the report, please clarify what is the period of time needed, under normal circumstances, for the issuance of a passport; what costs are incurred; and what administrative formalities are to be followed.

(b) Please provide further information with regard to the difficulties experienced with regard to the securing of permanent residence of Poles domiciled in the Soviet Union (para. 86 of the report).

(c) Please provide information on the law and practice of expulsion of aliens.

20. Mrs. SKORZEWSKA-LOSIAK (Poland) said that much of what she had already said on other matters was also relevant to guarantees to a fair trial (question VII (a)). The most important change affecting that issue was the provision made in the draft code of criminal procedure for wide-ranging intervention by the courts in the pre-trial examination of cases. Under that procedure, the courts could question the accused person and witnesses, and the accused person himself might request a court hearing. The courts alone had the right to remand a person in custody and the accused person was heard by the court before it took that decision. Complaints referring to the period of pre-trial examination were dealt with by the courts. In addition, an accused person could appeal against a failure to investigate his case. Any change in the charges brought by a prosecuting counsel would have to be submitted to the court. The powers of defence counsel had been broadened and those of prosecuting counsel reduced. Any court inquiry must be attended by defence counsel, and greater latitude was given to the defendant, for example if he did not speak Polish or in other mitigating circumstances. The judge pronounced his decisions in open court in the presence of all the parties concerned. Court proceedings were no longer inquisitorial but followed a procedure in which questions could be asked by the prosecution, the defence, the defendant and the judge, in that order, which was designed to minimize

interference in the investigation by the court. The legal reforms now before the Polish Parliament provided for the introduction of a system of appeal which would open the way to quashing a judicial decision that had the force of res judicata and would thus guarantee a defendant's rights to the due process of law.

21. With regard to question VII (b), the military courts, as mentioned earlier, were the only special courts in Poland; their purpose was to provide the judicial machinery to deal with the special aspects of the military environment. There were three levels of military court: barracks and district courts and a supreme court. The district courts dealt with appeals from barracks courts and tried serious cases. In cases involving officers, appeals were made to the Supreme Military Court. The procedure for the appointment of military judges was the same as that for civil judges. The new draft legislation contained guarantees of the independence of military courts. At present, crimes against the interests of the State were tried by military courts, but that would no longer be the case under the proposed new Code of Criminal Procedure; military courts would in future be confined to the trial of military offences only.

22. To answer question VII (c), legal aid was provided by lawyers and legal advisers, whose respective professional associations were both independent of the State. About 4,000 lawyers were currently practising, 3,330 in organized groups and 600 in private offices. Lawyers were organized into 25 legal chambers; the management of matters relating to the profession was dealt with by a Supreme Council elected by the lawyers' National Congress. There were approximately 16,000 legal advisers organized into 19 professional chambers; matters relating to the profession were handled by a National Council elected by the profession's National Congress. The possibility of merging the two groups into a single professional association had been raised in the previous Parliament, where that step had been considered appropriate in view of the far-reaching reforms being made to the legal system. The two branches of the legal profession were themselves undecided on the merits of the proposal, which would be brought before the next Parliament for discussion and decision.

23. With regard to question VII (d), to add to the information she had already provided when speaking of the appointment of judges, the National Judicial Council, which had been established by law in December 1989, was a body consisting of 26 members representing different branches of the judiciary and elected representatives. The presidents of the Supreme Court, the Supreme Military Court and the Administrative High Court, together with the Minister of Justice, were ex officio members of the Council. Elected members of the Council were judges from the various types of courts as well as members of the Diet and the Senate. The President and Vice-President of the Council were elected by its members from among themselves. The current President was the President of the Supreme Court. The chief function of the Council was to consider applications for posts in the judiciary. In 1990, it had considered 1,380 applications and had recommended the appointment of 861 persons. Recommendation by the Council was a necessary condition for appointment as a judge. In addition, the Council considered requests from judges for assignment to another court and for extension of service beyond the normal retirement age of 65 years. It also gave rulings on questions of professional ethics and on other matters relating to the judiciary.

24. The backlog of cases mentioned in question VII (e) was not excessive, but could usefully be reduced. The causes of the backlog were the radical changes being made in the organizational structure of the courts and the judiciary. In 1990 a three-level system of courts had been introduced in preparation for the subsequent establishment of a system of appeal. A further cause of the backlog was the increased powers which the courts in Poland had acquired over the past two years, for example to deal with matters relating to the basic rights of individuals and other matters previously outside their jurisdiction. The backlog was a problem that the judiciary itself would have to resolve, the Ministry of Justice having only a narrow administrative function in the matter of court proceedings. Furthermore, the Ministry had no wish to extend its limited range of action in the matter since it was concerned to safeguard the independence of the courts. The pressure on the courts was increasing; between 1989 and 1990 the number of civil cases had gone up by 3 per cent, labour law cases by 35 per cent and social security cases by 30 per cent. The average time taken for proceedings in criminal cases heard in district courts had increased to two months, and for other courts and other types of cases it varied from two to five months. In cases where court proceedings appeared excessively dilatory, the Ministry of Justice took the matter up with the presiding judge. It was hoped that as the radical reforms in the legal system and the judiciary were completed the courts would return to full effectiveness. To illustrate the pressures on the system, she pointed out that in her two years at the Ministry of Justice over 200 new laws had been adopted by Parliament.

25. Mr. RYMS (Poland), replying to question VIII (a), said that under the new Passport Act of 1990 passports were now issued by the voivodships (provincial authorities) and not the police as had formerly been the case. Under the Code of Administrative Procedure, the time taken to issue a passport should not exceed one month from the moment of application, and in emergencies, a passport could be issued within three days. No complaints of backlogs or excessive delays had been received and many provincial offices issued passports within two weeks of application. A passport was valid for 10 years and remained in the possession of the holder. Applicants had to complete a brief questionnaire, submit two photographs and pay a fee of 300,000 zlotys, or 150,000 zlotys in the case of a pensioner, student, schoolchild, veteran, or person receiving social security. For the sake of comparison, average monthly earnings were 1,900,000 zlotys.

26. In answer to question VIII (b), the difficulties mentioned in paragraph 86 of the report had principally occurred in 1989 and had been virtually over by 1990. They had been chiefly due to the sheer numbers of Soviet citizens of Polish origin applying for permanent residence in Poland and also to the fact that applications had been submitted within Poland by persons who had entered the country as tourists. The relevant agreement between Poland and the Soviet Union stipulated that applications for permanent residence in Poland were to be made at Polish embassies or consular offices before crossing the border into Poland. Decisions made by the Soviet authorities were also based on that agreement and had also caused difficulty and delay. In all, 20,000 foreigners had been granted permanent residence in Poland. In 1991, 1,600 applications for permanent residence had been

received, of which over a 1,000 had been granted, 37 had been rejected and the remainder were still being processed. The grounds for rejection were that the person concerned had nowhere to live in Poland and no source of income.

27. Expulsion of aliens (question VIII (c)) was governed by the Aliens' Act. That Act had been promulgated in 1963 but had been frequently revised since then, the latest amendment being in September 1991. Expulsion of an alien from Polish territory was ordered if there was clear proof that the person concerned had acted against the interests of Poland, had been convicted of an offence, had infringed Customs regulations or posed a threat to law and order in a manner specified in the Code of Administrative Procedure. The expulsion order was signed by the voivod (provincial governor); appeal could be made to the Ministry of the Interior and a complaint brought before the relevant administrative court. The amendment of September 1991, provided that, in cases where an alien refused voluntarily to comply with an expulsion order, the person concerned might, for organizational and technical reasons, be detained at an observation centre. Should that person leave the centre without sufficient reason or refuse to follow the rules applicable there, he might be remanded in custody for a period not exceeding 48 hours, or detained for a period not exceeding 90 days until he could be expelled. Appeals against expulsion orders and detention could be made to the ordinary courts.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

28. Mr. AGUILAR URBINA, referring to question VII (a), asked whether the new legislation contained any rule guaranteeing the right not to be compelled to testify against oneself or confess guilt, as enshrined in article 14 (3) (g) of the Covenant.

29. Mr. LALLAH said that he was impressed by the extensive reforms which had been made in the fields of legislation and judicial administration, with judges becoming much more independent. He had, however, been surprised to hear that judges had the right to question accused persons, which seemed a clear violation of article 14 (3) (g) of the Covenant. He wondered whether the Polish delegation had in fact meant that judges had the right to question witnesses. With all the changes taking place in Poland, he strongly recommended that the Polish delegation should encourage its judicial personnel to make a systematic study of the jurisprudence of the Human Rights Committee under the Optional Protocol.

30. Mr. MYULLERSON, also referring to article 14 of the Covenant, asked for clarification of the composition of the various types of courts. He also inquired whether there was trial by jury and what was the role of the assessors referred to in paragraph 89 of the report. Lastly, he would like to know whether, under the new Code of Criminal Procedure, the accelerated procedure referred to in paragraph 93 of the report and the simplified procedure referred to in paragraph 96 had been abolished.

31. Mr. ANDO asked whether judges in the military courts required special qualifications. He also wondered whether any legislation deemed unconstitutional by the Constitutional Court had any effect between the time it was pronounced unconstitutional and the time that action was taken by the legislature to either amend or repeal it.

32. Mr. EL SHAFEI asked for further information about the Arab refugees referred to in paragraph 86 of the report: how many had there been, what was their nationality, had they formerly been resident in third countries, and had they come to Poland under the auspices of UNHCR?

33. Mrs. SKORZEWSKA-LOSIAK (Poland) said that, under the new procedures embodied in the Code of Criminal Procedure, judges could put questions to accused persons after those put by other participants in the trial, while accused persons had the right to refuse to make statements. In those respects, there had been no major changes between the old and the new system. She fully agreed that it was in Poland's interests to publicize the jurisprudence of the Committee in order to promote a better understanding of the Covenant and ensure compliance with it.

34. In reply to Mr. Myullerson, the composition of the courts varied according to the type of proceedings. A court of first instance was presided over by one professional judge and two elected, non-professional assessor judges except in cases which might carry the death penalty, when there would be two professional judges and three assessors, and appeals cases, when there were always three professional judges. Under the simplified procedure, which was used only for straightforward cases carrying a light penalty, the hearing might be conducted before only one judge. Civil cases were usually heard by one professional judge and two, non-professional assessor judges. The simplified procedure could not be used where the accused was already in prison or was a persistent offender. The accelerated procedure had been applied to persons caught in flagrante delicto, who were brought before the court within 48 hours of arrest. There had been great reservations, however, concerning that type of procedure because of the limited opportunities of defence which it afforded. Under the new arrangements, the accelerated procedure had been abandoned.

35. Appointments to the post of military judge were made on the same basis as for the ordinary courts, but candidates had to be career officers.

36. In cases where the Constitutional Court found a particular provision of the law to be unconstitutional, the matter was referred to Parliament, which could overturn the decision of the Constitutional Court only by a two-thirds majority. Any proceedings conducted on the basis of provisions which were subsequently challenged could be reopened.

37. With regard to the refugees from Arab countries received in April 1990, she believed that they had numbered several hundred persons who had been attempting to reach Sweden via Poland. The majority had been Yemenis and some had been Ethiopians. If the Committee so desired, she would reply in greater detail at a later stage.

38. In reply to an earlier question by Mrs. Higgins, "involuntary offences" were offences that were committed unintentionally or even through negligence, and could range from the sale of stolen property to the killing of another motorist in a traffic accident. The sentences given to the perpetrators of such offences were lighter than those imposed for more serious offences, and the conditions of detention were less rigorous - for example, greater freedom was allowed, and possibly also contact with the outside world.

IX. Right to privacy (article 17)

With reference to the cases of unlawful opening of correspondence, telephone-tapping and bugging, mentioned in paragraph 102 of the report, please indicate whether any investigations into these cases have taken place; whether any criminal or disciplinary measures have been taken against those found guilty; and what measures have been taken to eliminate such devices and the recurrence of such practices.

39. Mrs. SKORZEWSKA-LOSIAK (Poland) said that in the cases of telephone-tapping and bugging referred to in paragraph 102 of the report, proceedings had been initiated but then shelved after it had been ascertained by experts that the devices involved had not been used. Bugging devices had also been discovered in premises used by Solidarity during the 1989 presidential election campaign: the district court had closed the proceedings but, after a special appeal had been made by the Ministry of Justice, the Supreme Court had overruled the district court's decision, and the case was to be reviewed.

X. Freedom of religion and expression (articles 18 and 19)

(a) Please elaborate on the legal restrictions that have been placed on individuals or groups in expressing religious beliefs on grounds of public safety, order, health or morals, or the rights and freedoms of others (paragraph 109 of the report).

(b) What is the length of community service as compared to the length of military service (paragraph 116 of the report)?

(c) Please provide information on progress achieved with regard to the implementation of the rights and freedoms provided for under article 19 of the Covenant, in particular in the light of the reform of the Penal Code and the criminal law (paragraph 126 of the report).

(d) What has been the experience to date with the implementation of the Press Act as amended by the Act of 11 April 1990?

(e) Paragraph 123 of the report states, inter alia, that "inciting others to commit offences or praising others for having committed offences" is prohibited. Paragraph 128 states that the Press Act is now in force. Does that mean that the aforementioned prohibition has been superseded?

40. Mrs. SKORZEWSKA-LOSIAK (Poland), replying to question (a), said that there were no restrictions on religious belief or worship or on associations formed for that purpose.

41. As to question (b), military service lasted 24 months, whereas community service lasted 36 months. Under an amendment to the law, which had already been approved but had not yet come in force, military service would be reduced to 18 months and community service to 24 months. Graduates performed nine months' military service.

42. With regard to question (c), the information already given was probably adequate, unless the Committee particularly wanted additional details.

43. Concerning question (d), the elimination of censorship had resulted in the publication of a large number of new magazines and newspapers reflecting a wide range of opinions, many of them controversial. During the first nine months of the year, 36 libel cases had been brought against journalists. Such actions were only to be expected on the path to normality because the abolition of censorship reflected the philosophy underlying the changes in Polish legislation: people would henceforth be expected to assume responsibility for their words and deeds.

44. With regard to question (e), the Control of Publications and Productions Act had been repealed, thereby ending preventive censorship, but inciting others to commit offences and praising others for having committed offences was now punishable under the Code of Criminal Procedure.

XI. Freedom of assembly and association (articles 21 and 22)

(a) Please provide information on the composition and powers of the administrative bodies which are competent to monitor the activities of associations.

(b) What are the relevant legal provisions governing registration of associations (paragraph 24 of the report)?

(c) Please provide information on the right of members of the police force and prison service to form trade unions (paragraph 152 of the report).

45. Mrs. SKORZEWSKA-LOSIAK (Poland) said that the authority competent to deal with the monitoring of activities of associations was the provincial governor. He reviewed applications for registration submitted by associations, whose officials could be asked to produce their statutes, regulations and other documentation. The administrative authority could revoke any provision not in conformity with the statutes of the association and could ask a court to dissolve the association if it infringed the law, if its numbers fell below the level required by law, or if it had no leadership.

46. In reply to question (b), she said the registration of associations was governed by ordinary law.

47. On question (c), there was only one union which members of the police could join; they did not have the right to strike. Neither frontier guards, nor officials of the Office for the Protection of State Officials, nor civil servants nor professional soldiers had the right to join trade unions. The law governing the prison service contained no regulations on the trade union rights of prison officers but under the Collective Disputes Act they had no right to strike. A prison officers' union had been registered on 10 September 1991.

48. Mrs. HIGGINS, referring to article 17 of the Covenant and the information provided in paragraph 102 of the report, noted that the monitoring of correspondence and the use of technical means to obtain information in a clandestine manner required the prior authorization of the Government Attorney, which was given at the formal request of the Minister of the Interior. In her opinion, such intervention in the normal right to privacy as

might at times be necessary should be ordered by a court rather than by the prosecution or the executive. The Committee's general comment on article 17 of the Covenant might be particularly pertinent in that regard.

49. On article 19, she noted with interest that the regulations specified in paragraph 123 had been repealed and observed that it would not normally be regarded as legitimate intervention to hold a person legally responsible for having exercised his freedom of speech with respect to the independence and territorial integrity of Poland or for insulting, mocking or ridiculing the constitutional system or attacking the constitutional principles of the foreign policy of Poland or its alliances.

50. Mr. MYULLERSON said that with all the drastic changes that had been made, it was difficult to know exactly what provisions remained in force, particularly since the report reflected the situation as it had existed more than a year earlier. He, too, was concerned about paragraph 123, which described a number of prohibited actions in the exercise of freedom of speech and freedom to express ideas in publications and productions. Some of those prohibitions, if still in force, could represent a violation of article 19 of the Covenant. Many journalists and academic writers felt obliged to attack accepted principles and to urge their replacement.

51. Mr. PRADO VALLEJO, referring to article 19 of the Covenant, asked whether there was any legislation in force for the control of television broadcasting in Poland. Did the State intervene in that area, and if so, in what manner?

52. He further asked how the term "very serious crimes" in paragraph 102 should be interpreted.

53. He shared the concern expressed by Mrs. Higgins and Mr. Myullerson with regard to paragraph 123. He asked what was meant by the phrase "attacking ... the feelings of non-believers" in the context of the prohibitions set forth in that paragraph.

54. Mr. WENNERGREN asked whether telephone-tapping and bugging were among the "technical means to obtain information in a clandestine manner", to which reference was made in the second sentence of paragraph 102. In such cases, it would normally be a court that would be empowered to decide on the use of such advanced technical methods. If telephone-tapping and bugging were permitted, had they been legalized by the Police Act of 1990? When he had asked a similar question five years earlier, the Polish delegation had replied that there was no legal authorization for their use, but it was possible that the situation had changed with the adoption of the new Act. If such use was permitted, what was its purpose?

55. Article 19 of the Covenant provided not only for the right to freedom of expression but also for the right to freedom to seek, receive and impart information. If a citizen had the right to seek information, there should be a corresponding obligation on the authorities to provide such information when requested. To what extent did such an obligation exist in Poland?

56. Mr. EL SHAFEI noted that religious faiths were excluded from the scope of the Associations Act but were covered by the new Act of May 1989. The latter,

however, concerned only the attitude of the State towards the Roman Catholic Church. It was stated in paragraph 112 of the report that provisions corresponding to the provisions of the Act which applied to freedom of conscience and religion existed in all laws concerning particular churches or faiths, in conformity with the principle of the equality of all faiths. He asked what laws currently regulated the freedom of religion in Poland. Was Catholicism accorded a special status as the State religion or were all faiths dealt with on an equal footing?

57. Mr. ANDO, referring to article 19 of the Covenant, associated himself with the points raised by Mrs Higgins, Mr. Myullerson and Mr. Prádo Vallejo. With respect to the prohibitions under the Control of Publications and Productions Act, referred to in paragraph 123, he noted from paragraph 128 that the Act of 11 April 1990 had repealed that Act and amended the Press Act. He therefore wondered why the prohibitions shown in paragraph 123 had been listed.

58. He asked whether the Polish people could now freely obtain foreign books or periodicals or whether the import of such publications was still restricted. Were foreign correspondents allowed to contribute articles to Polish newspapers or periodicals?

59. Miss CHANET drew attention to article 21 of the Covenant and paragraph 28 of the addendum to the report (CCPR/C/58/Add.13) which stated that, under the Act of 5 July 1990, the right to hold meetings was subject only to the restrictions specified by the law which were necessary for the protection of State security, public order, health or morals and that the administration of the commune, which must be informed of the organization of a public meeting, could prohibit such a meeting only if the purpose of the meeting or of its organization was contrary to the Public Meetings Act or violated the provisions of the Penal Code or if the organization of the meeting might constitute a serious danger to human life or health or to property. Paragraph 136 of the main report (CCPR/C/58/Add.10) referred to the Associations Act, article 1 (2) of which reproduced the permitted restrictions provided for in article 22 (2) of the Covenant concerning the right to freedom of association. In relation to articles 21 and 22 of the Covenant, she wished to know what criteria were used to determine the restrictions necessary for the protection of public order and in what specific cases a meeting had been prohibited.

60. Mrs. SKORZEWSKA-LOSIAK (Poland) said that the report covered the legal developments that had taken place in Poland during a period of major change. The information in paragraph 123 was given in order to provide the background to the amendments that had been made in the Act of 29 May 1989. Censorship had been completely abolished, and the restrictions described were no longer in force. The liberalization of legal restrictions also applied to the responsibility of authors under the Penal Code.

61. Television broadcasting was still a State monopoly, but an Act on private television and radio broadcasting, to which the Senate had proposed a number of amendments, had been debated in Parliament. The only parts of the Act so far adopted related to permits for radio and television transmitters. On the right to seek information, anyone who was refused access to such information had the right to appeal to an administrative court.

62. The prohibition against attacking religious beliefs or the feelings of non-believers had been a provision of the Control of Publications and Productions Act, which had been repealed. The question of telephone-tapping and bugging was dealt with in article 19 of the Police Act, which covered activities not regulated under the Code of Criminal Procedure. Such activities, which were subject to severe restrictions, were carried out by the police and were designed to prevent the commission of offences against the life or security of the person, which were also punishable under international agreements. They were authorized only with the permission of the public prosecutor or at the request of the Minister of the Interior. The public prosecutor was also the Minister of Justice.

63. The control and the monitoring of publications were regulated by the Code of Criminal Procedure. Guarantees and safeguards were provided in the new regulations and the courts were able to exercise greater supervision over monitoring activities.

64. Religious associations were covered by the Act of 1989 guaranteeing freedom of conscience and belief, except in cases where a special law existed with respect to specific religious associations. There was no discrimination as between such associations, although there were some divergences with respect to the appointment of aliens as church leaders. There were some provisions that related both to the Roman Catholic Church, which had existed in Poland for many hundreds of years, and the Orthodox Church. An Act with respect to those churches had been promulgated in 1991 with provisions similar to those of the Act concerning freedom of conscience and belief. Others were being prepared, and the question of church property, which had earlier been nationalized, was also being dealt with. An Act concerning the Evangelical Church, which was the third largest church community in Poland, was also being prepared. Sixty-six religious communities were registered, some of them with only a very small number of adherents. It was difficult to legislate individually for each of them, but all were guaranteed freedom of conscience and in any case had expressed no desire for separate legislation. Catholicism was not a State religion, although it was the religion of 90 per cent of the population.

65. The restrictions to which Miss Chanet had referred were provided for in international law as well as domestic law. They were interpreted in the context of national jurisprudence. The repetition of the provisions of the Covenant in national legislation helped in incorporating them into the national legislation. The Administrative High Court had ruled in 1983 that administrative decisions based on general clauses had the same legality as others, and that an administrative body basing itself on such general provisions must apply them to the rights and freedoms of the individual. The inclusion in the national law of the general provisions of the Covenant thus served to protect the rights and freedoms of the individual.

66. The prohibition of meetings was severely restricted, and any exceptions were subject to correct interpretation by the courts in accordance with their jurisprudence. There was no restriction on the import of foreign publications, which were freely available on news-stands. Foreign correspondents could operate without any restriction.

The meeting rose at 1.10 p.m.